



# In the Supreme Court of the United States.

October Term, 1897.

No. 192.

*Daniel Dull and Nellie M. Dull,*  
*Plaintiffs in Error,*

*vs.*

*John E. Blackman, Edward Phelan,*  
*Edward R. Duffie and George F.*  
*Wright, Defendants in Error.*

*Error to the Supreme Court of the State of Iowa.*

## *MOTION TO DISMISS OR AFFIRM.*

Come now Edward Phelan, Edward R. Duffie and George F. Wright, the only defendants in error served with the citation in the above entitled cause or appearing thereto, and by their counsel appearing in that behalf, move the court to dismiss the writ of error in said cause, for want of jurisdiction, because:

The judgment from which the said writ of error purports to have been taken, was rendered on various and different issues raised, and on matters and questions involved, other than the alleged Federal question, to-wit:

(a.) Alleged fraud of Blackman in obtaining from Dulls the conveyance by them to him of the Iowa lands:

(b.) Alleged failure of consideration for making said conveyance:

(c.) Dull's failure to restore or offer to restore what they had received as the consideration for making

said conveyance, and to restore the parties to the same situation that they occupied before the said conveyance was made:

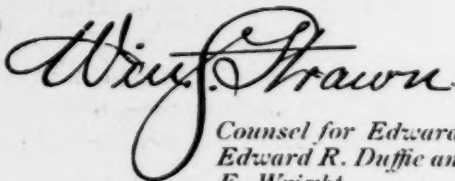
(d.) That Dulls were estopped by a settlement they made with Blackman, knowledge of which was communicated to Phelan and Duffie, who acquired their rights in said Iowa land in reliance on such settlement:

(e.) Laches of Dulls in not seasonably prosecuting their alleged rights.

Each and every one of which said issues, matters and other grounds of said decision were independent of and did not involve the alleged Federal question. and were broad enough to support the judgment given, without reference to the alleged Federal question; and said judgment could have been given without deciding the alleged Federal question and a decision thereof was not necessary to the judgment given in favor of these defendants; and said judgment does not rest on said alleged Federal question or the decision thereof.

And the said defendants in error, by counsel as aforesaid also move the court to affirm the said judgment or decree from which the said writ of error purports to be taken, for the reason that although the record in said cause may show that this court has jurisdiction in the premises, yet it is manifest that the question on which the jurisdiction of this court depends is so frivolous as not to need further argument.

(Signed)

A large, elegant handwritten signature in cursive script, reading "Wm. F. Strawn". The signature is written in dark ink and is positioned to the left of the printed name.

Counsel for Edward Phelan,  
Edward R. Duffie and George  
F. Wright.

*Defendants in Error.*

## IN THE SUPREME COURT OF THE UNITED STATES.

October Term, 1897. No. 192.

Daniel Dull and Nellie M. Dull,  
Plaintiffs in Error,

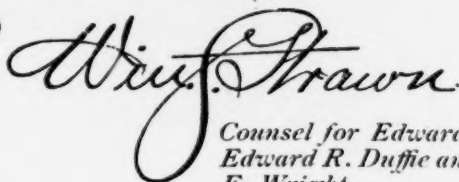
vs.

John E. Blackman, Edward Phelan,  
Edward R. Duffie and Geo. F. Wright  
Defendants in Error.*Notice of Motion.*

To Isaac N. Flickinger, Esquire:

Counsel for Plaintiffs in Error:

Please take notice that on Monday, December 6th, 1897, at the opening of the Court or as soon thereafter as counsel can be heard, the motions of which the annexed and foregoing are copies, will be submitted to the Supreme Court of the United States for the decision of said court thereon. Annexed hereto is also a copy of the brief of argument to be submitted with the said motions in support thereof.

*(Signed)*


*Counsel for Edward Phelan,  
Edward R. Duffie and George  
F. Wright.*

*Defendants in Error.*

Due and legal service of the foregoing notice, with a copy of the said motion and copy of the said brief of argument in support thereof, hereby accepted and acknowledged.

Council Bluffs, Iowa, November 12, 1897.

*(Signed.)*

ISAAC N. FLICKINGER,  
*Counsel for Plaintiffs in Error.*